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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF APPEALS

BRIEF ON APPEAL

In re the application of Jeffry A. Pegg

Filed: December 15, 2003

Serial No.: 10/734,883

Group Art Unit: 3711

Examiner: Hunter, A.

For: Vertically Mass Balanced Putter

JACK A. KANZ
for Appellant



TABLE OF CONTENTS

TABLE OF AUTHORITIES	iii
REAL PARTY IN INTEREST	1
RELATED APPEALS AND INTERFERENCES	2
STATUS OF THE CLAIMS	2
STATUS OF AMENDMENTS	2
SUMMARY OF THE INVENTION	2
SUMMARY OF CLAIMED SUBJECT MATTER.....	4
THE ISSUES	5
GROUPING OF THE CLAIMS.....	6
THE REFERENCES	6
THE REJECTIONS.....	6
ARGUMENT AND AUTHORITIES	8
ISSUE A. Can the disclosures of Kitabayashi and Chandler be combined to form the invention defined by Claims 1-3 and 6?	8
ISSUE B. Is there any teaching, suggestion or motivation found in either Kitabayashi, Chandler or Redman to combine individual components of The references to produce the invention of Claims 1-3 and 6?	13
ISSUE C. Can the disclosures of Kitabayashi, Chandler or Redman be combined to form the invention defined by Claims 4-5 and 7-8?	17
ISSUE D. Is there any teaching, suggestion or motivation found in either Kitabayashi, Chandler or Redman to combine individual components of the references to produce the invention of Claims 4-5 and 7-8?.....	19
ISSUE E. Can the disclosures of Redman and Chandler be combined to form the invention defined by Claim 1?.....	21
ISSUE F. Is there any teaching, suggestion or motivation found in either Redman or Chandler to combine individual components of the references to produce the invention of Claim 1?	25
CONCLUSION.....	30
APPENDIX I	A1-A2

TABLE OF AUTHORITIES

CASES

<i>ACS Hospital System, Inc. v. Montefiore Hosp.,</i> 732 F.2d 1572, 221 USPQ 929 (Fed. Cir. 1984)	15, 27
<i>Carella v. Starlight Archery,</i> 231 USPQ 644 (Fed. Cir. 1986).....	15, 27
<i>C.R. Bard, Inc. v. M3 Sys., Inc.,</i> 157 F.3d 1340 (Fed. Cir. 1998).....	14, 26
<i>Envtl. Designs, Ltd. v. Union Oil Co.,</i> 713 F.2d 693 (Fed. Cir. 1983).....	13, 25
<i>Ex parte Clapp,</i> 227 USPQ 972	30
<i>In re Bell,</i> 991 F.2d 781, 26 USPQ 143 (CCPA 1976)	8
<i>In re Bond,</i> 15 USPQ2d 1566 (Fed. Cir. 1990).....	15, 27, 28
<i>In re Dillon,</i> 919 F.2d 688, 16 USPQ2d 1987 (Fed. Cir. 1990).....	13, 25
<i>In re Fine,</i> 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).....	8
<i>In re Gordon, et al.,</i> 221 USPQ 1125 (Fed. Cir. 1984).....	29, 30
<i>In re Horn, Horn, Horn and Horn,</i> 203 USPQ 969 at 971 (CCPA 1979)	16, 28
<i>In re Keller, Terry and Davies,</i> 208 USPQ 871 (CCPA 1981)	29
<i>In re Laskowski,</i> 10 USPQ2d 1397 (Fed. Cir. 1989).....	16, 29, 30
<i>In re Oetiker,</i> 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).....	8
<i>In re Richman,</i> 165 USPQ 509 (CCPA 1970)	15, 27, 29

<i>In re Soderquist</i> , 140 USPQ 387 (CCPA 1964)	15, 27, 29
<i>In re Wright</i> , 848 F.2d 1216, 6 USPQ2d 1959 (Fed. Cir. 1988).....	13, 14, 25, 26
<i>Interconnect Planning Corp. v. Feil</i> , 774 F.2d 1132, 227 USPQ 543 (Fed. Cir. 1985)	15, 27, 29
<i>Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick Co.</i> , 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984)	13, 26
<i>Merck & Co., Inc. v. Biocraft Laboratories, Inc.</i> , 10 USPQ2d 1843 (Fed. Cir. 1989).....	29
<i>Motorola, Inc. v. Interdigital Technology Corp.</i> , 125 F.3d 1461, 43 USPQ 2d 1481 (Fed. Cir. 1997).....	16, 28
<i>National Tractor Pullers Assn., Inc. v. Watkins</i> , 205 USPQ 892 at 911.....	12, 24
<i>Ruiz v. A. B. Chance Co.</i> , 357 F. 3 rd 1270, 69 USOQ 2d 1686 (Fed. Cir. 2004).....	13, 16, 25, 29
<i>W.L. Gore & Associates, Inc. v. Garlock, Inc.</i> , 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983)	15, 27



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF APPEALS

APPEAL NO.: _____

In re the application of Jeffry A. Pegg

Filed: December 15, 2003
Serial No: 10/734,883
Art Unit: 3711
Examiner: Hunter, A.
Title: Vertically Mass Balanced Putter

BRIEF ON APPEAL

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

This is an appeal from the final rejection of Claims 1-8 in the above-identified application.

REAL PARTY IN INTEREST

Jeffry A. Pegg, the inventor.

RELATED APPEALS AND INTERFERENCES

None

STATUS OF THE CLAIMS

No claims have been allowed. Claims 1-8 have been rejected under 35 USC 103(a) as obvious in view of various combinations of the references cited. The claims on appeal are reproduced in Appendix I.

STATUS OF AMENDMENTS

All proposed amendments have been entered.

SUMMARY OF THE INVENTION

This invention relates to golf clubs. More particularly, it relates to putters which are weighted and assembled with their components arranged so that the vertical center of mass of the entire putter assembly (head, shaft and grip) lies within the horizontal length of a defined preferred striking surface on the face of the putter head. Thus the mass of the putter is substantially balanced with respect to the vertical axis of the putter head.

The general structure of the putter of the invention is illustrated in the drawing as a putter which has a head 10, a shaft 20 and a grip 28. The head 10 defines a horizontal axis and has a bottom face 12, a top face 13 and a striking face 11 which extends in a substantially vertical plane from the bottom face 12 to the top face 13. The shaft 20 extends from the top face 13 of the head at an angle of about 8° to 25° from vertical. Grip 28 is positioned at the end of the shaft 20 opposite the head 10. As defined by Claim 1, the mass of the putter is substantially balanced about a vertical line

extending through the horizontal mid-point of the putter head. The striking face 11 extends in a substantially vertical plane substantially parallel with the horizontal axis. A preferred striking area is positioned on said striking surface which extends approximately one inch in each direction horizontally from the horizontal mid-point of the putter head. The shaft 20 extends from the top face 13 at an angle of from about 8° to about 25° from vertical and is aligned so that the mass of the putter (including head 10, shaft 20 and grip 28) lies within the horizontal length of the defined preferred striking area. As more specifically defined in Claim 6, the shaft 20 extends from the top face 13 at a position between said horizontal mid-point and the toe end of the putter head 10.

The unique structure defined by the claims provides a putter assembly (including head, shaft and grip) in which the mass is uniformly balanced about the horizontal mid-point of the putter head even though the shaft is inclined about 8° to about 25° from vertical. Accordingly, when the putter is stroked in the desired pendulum motion with the player in the traditional stance, the tendency for the putter head to yaw is virtually eliminated, resulting in a uniform stroke motion in which the striking face of the putter remains perpendicular to the direction of travel throughout the entire swing. By maintaining the vertical center of mass substantially at the horizontal mid-point of the striking surface, unintentional yaw is reduced and the striking face remains perpendicular to the direction of travel throughout the entire swing.

SUMMARY OF CLAIMED SUBJECT MATTER (as required by 37 CFR 41.37(c)1(v))

The claimed subject matter of Claim 1 is:

A putter (See specification page 2, lines 1-9; page 3, lines 1-15; page 4, lines 9-14. See drawing Fig. 1) comprising a putter head 10 (See specification page 4, lines 15-21; page 5, lines 3-5; See drawing Fig. 1) having a first mass and defining a bottom face 12 (See specification page 4, lines 15-21), a top face 13 and a striking face 11 which defines a horizontal axis and which extends in a substantially vertical plane from the bottom face 12 toward the top face 13 and extends at least about four inches in a plane substantially parallel with the horizontal axis to define a preferred striking area 17 approximately centrally located on the striking face 11 and extending a distance of approximately one inch in each direction horizontally from the horizontal mid-point of the striking face 11 (See specification page 5, lines 6-18; page 6, lines 5-12); and a shaft 20 having a second mass and extending from the top face 13 of the putter at an angle of from about 8° to about 25° from vertical (See specification page 7, lines 3-14; See drawing Fig. 2) with respect to the horizontal axis supporting a grip 28 on the end thereof remote from the putter head 10 and aligned so that the vertical center of mass of the putter lies within the horizontal length of the preferred striking area 17 (See drawing Fig.s 1-3; See specification page 6, lines 16-page 7; line 2; page 7, lines 15-180).

The claimed subject matter of Claim 6 is:

A putter (See specification page 2, lines 1-9; page 3, lines 1-15; page 4, lines 9-14. See drawing Fig. 1) comprising a putter head 10 (See specification page 4, lines 15-21; page 5, lines 3-5; See drawing Fig. 1) having a toe end, a heel end, a bottom face 12 (See specification page 4, lines 15-21), a top face 13 and a striking face 11 which

defines a preferred striking area 17 approximately centrally located on the striking face 11 and extending approximately one inch in each direction horizontally from the horizontal midpoint of the striking face 11 (See specification page 5, lines 6-18; page 6, lines 5-12; See drawing Fig. 2); and a shaft 20 extending from the top face 13 of the putter head 10 at a position between the horizontal midpoint and the toe end at an angle of from about 8° to about 25° from vertical wherein the putter head and the shaft are arranged and weighted to align the vertical center of mass thereof within the horizontal length of the preferred striking area 17 (See drawing Figs 1-3; See specification page 6, lines 16 – page 7, lines 2; page 7, lines 10 – page 8, line 2).

THE ISSUES

ISSUE A. Can the disclosures of Kitabayashi and Chandler be combined to form the invention defined by Claims 1-3 and 6?

ISSUE B. Is there any teaching, suggestion or motivation found in either Kitabayashi or Chandler to combine individual components of the references to produce the invention of Claims 1-3 and 6?

ISSUE C. Can the disclosures of Kitabayashi, Chandler or Redman be combined to form the invention defined by Claims 4-5 and 7-8?

ISSUE D. Is there any teaching, suggestion or motivation found in either Kitabayashi, Chandler or Redman to combine individual components of the references to produce the invention of Claims 4-5 and 7-8?

ISSUE E. Can the disclosures of Redman and Chandler be combined to form the invention defined by Claim 1?

ISSUE F. Is there any teaching, suggestion or motivation found in either Redman or Chandler to combine individual components of the references to produce the invention of Claim 1?

GROUPING OF THE CLAIMS

The rejected claims do not stand or fall together. However, for purposes of this appeal the claims may be grouped as follows and separate arguments for patentability are advanced in support of each group:

Group I Claims 1-3 and 6

Group II Claims 4-5 and 7-8

THE REFERENCES

Kitabayashi	JP 2003-117033
Chandler II	USPN 6,152,832
Redman	USPN 1,631,504

THE REJECTIONS

Claims 1-8 have been rejected under 35 USC 103(a) as obvious in view of various combinations of the cited references, the Examiner alleging:

“Claims 1-4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitabayashi (JP 2003-117033) in view of Chandler, III (USPN 6152832).

Regarding claim 1-3, Kitabayashi discloses a putter having a putterhead having a first mass and defining a top face, bottom face, and striking face which defines a horizontal axis and which extends in a substantially vertical plane from the bottom face to the top face and extends in a plane parallel to the horizontal axis and defining a preferred striking area centrally located on the striking face and a shaft having a second mass extending from the top face at an angle of 23.5 degrees supporting a grip on the end thereof remote from the putter head. Kitabayashi offsets the shaft's mounting position in order to allow left and right-handed players to utilize the club head. It is unclear if Kitabayashi discloses the vertical center of mass lying within the preferred

length of the striking area, though Kitabayashi shows the clubhead being symmetric about a vertical axis, having a shaft connected and extending between the toe end and midpoint, and having an angle of 23.5 degrees. Chandler, III discloses a putter having a putter head and a shaft with grip wherein the vertical center of mass lies within the preferred length of the striking area being that the center of mass of the putter head would naturally occur at the center of the putterhead and that the handle of the shaft is substantially aligned therewith (See Entire Document). One having ordinary skill in the art would have found it obvious to have the vertical center of mass within the preferred striking area, as taught by Chandler, III, in order to promote natural pendulum movement of the arm.

Regarding claim 4, Chandler, III shows a marker that identifies the midpoint of the putter head (See Figure 1).

Regarding claim 6, see the above regarding claim 1.

Regarding claim 7, Chandler, III also shows a marker on the top face in which the marker appears to be aligned with the center of mass of the putter (See Figures 1 and 2).

Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitabayashi in view of Chandler, III further in view of Redman.

Regarding claim 8, Kitabayashi in view of Chandler, III does not disclose the marker equally visible from both sides of the shaft. Redman shows the marker being equally visible on both side of the shaft. One having ordinary skill in the art would have found it obvious to have the marker of Kitabayashi in view of Chandler, III to be visible for both sides of the shaft, as taught by Redman, in order to align the golf ball with the club head.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Redman in view of Chandler, III (USPN 6152832).

Regarding claim 1, Redman discloses a putter having a putterhead having a first mass and defining a top face, bottom face, and striking face which defines a horizontal axis and which extends in a substantially vertical plane from the bottom face to the top face and extends in a plane parallel to the horizontal axis and defining a preferred striking area centrally located on the striking face and a shaft having a second mass extending from the top face at an angle of 65 degrees (25 degrees from a vertical axis with respect to the horizontal axis) supporting a grip on the end thereof remote from the putter head. Redman offsets the shaft's mounting position in order to balance the weight of the club head. It is unclear if Redman discloses the vertical center of mass lying within the preferred length of the striking area. Chandler, III discloses a putter having a putter head and a shaft with grip wherein the vertical center of mass lies within the preferred length of the striking area being that the center of mass of the putter head would naturally occur at the center of the putterhead and that the handle of the shaft is substantially aligned therewith (See Entire Document). One having ordinary skill in the art would have found it obvious to have the vertical center of mass within the preferred striking area, as taught by Chandler, III, in order to reduce twisting and to promote natural pendulum movement of the arm."

ARGUMENT AND AUTHORITIES

In rejecting claims under 35 USC 103, the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443 (Fed. Cir. 1992). Only if that burden is met does the burden of coming forward with argument or evidence shift to the applicant. A *prima facie* case of obviousness is established only when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 782, 26 USPQ 143,147 (CCPA 1976). If the Examiner fails to establish a *prima facie* case, the rejection is improper and must be overturned. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596,1598 (Fed. Cir. 1998). No such *prima facie* case has been presented in this case.

The invention claimed addresses the problem of induced yaw in movement of the putter head when the putter is moved through a pendulum swing 90° from the direction in which the player is facing to stroke the ball. Appellant's solution is constructing the putter so that the mass of the entire putter assembly (including head, shaft and grip) is uniformly balanced about the horizontal mid-point of the putter head with the shaft inclined at about 8° to about 25° from vertical to permit use of the normal traditional stance when putting. By maintaining the vertical center of mass substantially at the horizontal mid-point of the striking surface, the striking face remains perpendicular to the direction of putter head travel throughout the entire swing of the putter and unintentional yaw is reduced.

ISSUE A. Can the disclosures of Kitabayashi and Chandler be combined to form the invention defined by Claims 1-3 and 6?

Claim 1 (as well as Claims 2-5 dependent therefrom) defines a putter comprising:

(a) a putter head having a first mass and defining a bottom face, a top face and a striking face which defines a horizontal axis and which extends in a substantially vertical plane from said bottom face toward said top face and extends at least about four inches in a plane substantially parallel with said horizontal axis to define a preferred striking area approximately centrally located on said striking face and extending a distance of approximately one inch in each direction horizontally from the horizontal mid-point of said striking face; and

(b) a shaft having a second mass and extending from the top face of said putter at an angle of from about 8° to about 25° from vertical with respect to said horizontal axis supporting a grip on the end thereof remote from said putter head and aligned so that the vertical center of mass of the putter lies within the horizontal length of said preferred striking area.

Claim 6 defines the same putter in more specific language as comprising:

(a) a putter head having a toe end, a heel end, a bottom face, a top face and a striking face which defines a preferred striking area approximately centrally located on said striking face and extending approximately one inch in each direction horizontally from the horizontal midpoint of said striking face; and

(b) a shaft extending from said top face of said putter head at a position between said horizontal midpoint and said toe end at an angle of from about 8° to about 25° from vertical wherein said putter head and said shaft are arranged and weighted to align the vertical center of mass thereof within the horizontal length of said preferred striking area.

In rejecting Claims 1-3 and 6, the Examiner alleges that Kitabayashi discloses all the structure of Claims 1-3 and 6 excepting only the critical limitation of aligning the shaft and grip “so that the vertical center of mass of the [entire] putter lies within

the horizontal length of said preferred striking area.”¹ While admitting that Kitabayashi fails to disclose this critical limitation, the Examiner alleges that Chandler “discloses a putter having a putter head and a shaft with grip wherein the vertical center of mass lies within the preferred length of the striking area...” and concludes that “One having ordinary skill in the art would have found it obvious to have the vertical center of mass within the preferred striking area...”

It should first be noted that Kitabayashi discloses a unique “tri-planar grip” for a traditional mallet-type putter with the shaft inclined 23.5° from vertical so that the putter can be used in the traditional stance wherein the player faces 90° from the direction of swing. Chandler, on the other hand, discloses a putter where the shaft extends vertically from the putter head, thus requiring the player to use an unusual upright stance facing the direction of swing. This, of course, limits the Chandler putter to use with only one hand instead of the traditional two-handed grip.

Assuming (without admitting) that Kitabayashi discloses all the claimed structure except aligning the shaft, *etc.*, so that the center of mass is vertically aligned over the preferred striking area (as alleged by the Examiner), substitution of the vertically aligned shaft of Chandler for the inclined shaft of Kitabayashi is necessary to achieve the critical limitation of aligning the shaft and grip “so that the vertical center of mass of the [entire] putter lies within the horizontal length of the preferred striking area.” Such a combination, however, would produce a putter which fails to include another limitation specified, *i.e.*, “a shaft...extending from the top face of said putter at an angle of from about 8° to about 25° from vertical...” as required in Claims 1-3 and 6.

¹ In Claim 6, this limitation as recited as “wherein said putter head and said shaft are arranged and weighted to align the vertical center of mass thereof within the horizontal length of said preferred striking area.”

Kitabayashi discloses a club head supported on a shaft which is on the top surface toward the toe end (instead of the center or heel end) of the head. There is no discussion or recognition of any of the characteristics or limitations set forth in Claims 1-3 and 6. Instead, there is simply a picture of a traditional mallet-type putter. The Examiner's admission that "It is unclear if Kitabayashi discloses the vertical center of mass lying with the preferred length of the striking area" is a less than candid appraisal of Kitabayashi. Kitabayashi does not even describe (or recognize) a "preferred striking area" or disclose any limitation which would locate the center of mass within such a preferred striking area. Instead, Kitabayashi merely discloses a grip which can be rotated 360° to permit right-hand or left-hand use. Nothing in Kitabayashi discloses or suggests that the components of the putter must be arranged so that the *vertical center of mass* of the entire putter lies within the horizontal length of the preferred striking area.

To provide the admitted deficiencies of Kitabayashi, the Examiner attempts to combine the disclosure of Chandler, alleging that the one-handed croquet-style putter of Chandler inherently positions the center of mass of the entire putter within the preferred striking area (because the Chandler shaft projects vertically from the horizontal center of the putter head face) and thus it would be obvious to position the shaft at the vertical center of mass.

Assuming that the vertical displacement of the Chandler shaft results in positioning the vertical center of mass within the (undefined) preferred striking area of the putter head face, this structure alone *precludes* combining the disclosure of Chandler with the disclosure of Kitabayashi to support an obviousness rejection under §103. All of Appellant's claims specifically require that the shaft extend from the

putter head top surface at an angle of from about 8° to about 25° from vertical.² Chandler specifically requires the shaft to extend vertically above the geometric center of the putter head. Therefore, it would be impossible to combine any structure or teaching found in Chandler with the disclosure of Kitabayashi to produce a putter in which the shaft extends from the putter head at an angle of from about 8° to about 25° and in which the vertical center of mass of the *entire putter* (including shaft and grip) lies within the preferred striking area. The stated reason for aligning the Chandler shaft vertically is to permit use of a one-handed upright and forward facing stance. Thus, incorporating the vertically arranged shaft structure of Chandler would destroy the mode of operation of the Kitabayashi putter.

As stated in *National Tractor Pullers Assn., Inc. v. Watkins*, 205 USPQ 892 at 911:

"Modification of a prior art patent or device which would render that device unworkable for its intended purpose cannot be said to suggest such a modification."

The Kitabayashi putter is obviously designed and intended to be used with the player in a traditional two-handed stance facing 90° from the direction of putter head swing. Furthermore, Chandler expressly arranges his putter structure to require that the shaft extends vertically so that the putter must be used only in the unorthodox upright forward-facing stance while gripped with only one hand.

Appellant's putter is designed only for use in the traditional two-handed stance with the player facing 90° from the line of putter head travel. Not only would the combination suggested by the Examiner destroy the mode of operation of the primary reference, it would require the redesigned putter to function in an entirely different

² Inclination of the shaft from vertical is, of course, necessary to permit use of the putter in the traditional two-handed stance with the player facing 90° from the direction of swing.

manner. Accordingly, the modification of Kitabayashi suggested by the Examiner cannot be used to support a rejection under 35 USC 103.

ISSUE B. Is there any teaching, suggestion or motivation found in either Kitabayashi or Chandler to combine individual components of the references to produce the invention of Claims 1-3 and 6?

For determining obviousness, Sec. 103 specifically requires that the claim be considered “as a whole”, including its structure, its properties and the problems it solves. See *In re Wright*, 848 F.2d 1216, 1219, 6 USPQ2d 1959, 1961 (Fed. Cir. 1988); *In re Dillon*, 919 F.2d 688, 16 USPQ2d 1987 (Fed. Cir. 1990). Inventions typically are new combinations of existing principles or features. *Envtl. Designs, Ltd. v. Union Oil Co.*, 713 F.2d 693, 698 (Fed. Cir. 1983) (noting that “virtually all [inventions] are combinations of old elements.”) As expressed in *Ruiz v. A. B. Chance Co.*, 357 F. 3rd 1270, 69 USQ 2d 1686 (Fed. Cir. 2004):

“The ‘as a whole’ instruction in title 35 prevents evaluation of the invention part by part. Without this important requirement, an obviousness assessment might break an invention into its component parts (A + B + C), then find a prior art reference containing A, another containing B, and another containing C, and on that basis alone declare the invention obvious. This form of hindsight reasoning, using the invention as a roadmap to find its prior art components, would discount the value of combining various existing features or principles in a new way to achieve a new result – often the very definition of invention.”

Sec. 103 further requires cognizance of not only the structure and properties of the invention but also the problems it solves. *Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick Co.*, 730 F.2d 1452, 1462, 221 USPQ 481, 488 (Fed. Cir. 1984). It is error to focus solely on the product created rather than on the obviousness or non-obviousness of its *creation*. Therefore, “the question is whether what the inventor did would have been obvious to one of ordinary skill in the art attempting to

solve the problem on which the inventor was working." *In re Wright*, 848 F.2d at 1219, 6 USPQ2d at 1961.

There can be no doubt that Kitabayashi is not concerned with the problem of induced yaw. Instead, Kitabayashi merely describes a rotatable grip so that the putter can be used by left-handed or right-handed players. No reason for or motivation to align the shaft to achieve a vertically mass balanced putter is even remotely suggested.

Chandler, on the other hand, recognizes the yaw problem but addresses it in an entirely different and unique manner. Chandler aligns the shaft vertically, thus (apparently) achieving a vertically mass balanced putter. However, because of the vertical alignment of the Chandler shaft, the putter cannot be used in the traditional two-handed 90° stance. Thus, while Chandler recognizes the problem addressed by Appellant, Chandler's solution cannot be applied to traditional putters. Appellant's unique solution solves both problems – a vertically mass balanced putter which can be used in the traditional stance.

Most significantly, nothing in either reference suggests that the Examiner's modifications could be made or that the modifications would produce the novel results of the claimed structure. As explained in *C.R. Bard, Inc. v. M3 Sys., Inc.*, 157 F.3d 1340, (Fed. Cir. 1998):

[T]he legal conclusion of obviousness requires that there be some suggestion, motivation, or teaching in the prior art whereby the person of skill would have selected the components that the inventor selected and used them to make the new device.

The modification suggested by the Examiner, however, is only apparent from the teachings of the present invention and the Examiner's modified structure becomes obvious only after referring to the desired structure described and claimed by Appellant.

It is well settled that when "prior art references require the selective combination...to render obvious a subsequent invention, there must be some reason for the combination other than hindsight gleaned from the invention itself." *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985). *See also ACS Hospital System, Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). "To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." *W.L. Gore & Associates v. Garlock*, 721 F.2d 1540, 1553, 220 USPQ 312-13 (Fed. Cir. 1983).

Obviousness under §103 cannot be established by modifying the prior art to produce the invention absent some teaching, suggestion or incentive supporting such combination or modification. *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990) (quoting from *Carella v. Starlight Archery*, 231 USPQ 644 (Fed. Cir. 1986)). Furthermore, the references can only be considered for what they teach one skilled in the art. *In re Soderquist*, 140 USPQ 387 (CCPA 1964); *In re Richman*, 165 USPQ 509 (CCPA 1970). The rejection here is not based on any disclosure of structure as specified in the rejected claim nor is the rejection based on a showing that the Examiner's combination would solve the problems solved by the claimed invention. Instead, the rejection is based solely on the Examiner's unsupported supposition that the references may be modified *merely for expedience*. However, as stated in *In re Bond*:

The references themselves must provide some teaching whereby the applicant's combination would have been obvious.

No such teaching can be found in either of the references. The Examiner has merely assumed that since the claimed structure appears simple, it would be obvious to modify

other apparently simple structures to produce the claimed invention with no basis therefor other than Appellant's disclosure. While the claimed structure may appear simple in hindsight, its *creation* was neither simple nor obvious. As noted in *In re Horn, Horn, Horn and Horn*, 203 USPQ 969 at 971 (CCPA 1979):

[S]implicity and hindsight are not proper criteria for resolving the issues of obviousness.

The absence of a suggestion to combine is telling in an obviousness determination. In *Motorola, Inc. v. Interdigital Technology Corp.*, 125 F.3d 1461, 43 USPQ 2d 1481 (Fed. Cir. 1997) the court stated:

Although...[the disclosure requirement]...presupposes the knowledge of one skilled in the art of the claimed invention, that presumed knowledge does not grant a license to read into the prior art references teachings that are not there.

The present obviousness rejection is based solely on the Examiner's assumptions of that inclined but vertically mass balanced shafts could be substituted for non-vertically mass balanced shafts because Chandler shows a vertically aligned shaft. Simply stated, the rejection is based on the Examiner's unsubstantiated assumption instead of teachings found in the art. The sole basis for making such assumption is the Examiner's belief that the prior art could be modified to produce the invention even though there is no such teaching or suggestion in the art. However, "[T]he mere fact that prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Laskowski*, 871 F.2d 115, 10 USPQ 1397 (Fed. Cir. 1989). Nowhere does the Examiner even allege that any of the references remotely suggests the desirability of the modifications suggested. Instead, the Examiner finds a vertical shaft (which he thinks would provide the missing vertical mass balancing) and, as expressly prohibited by *Ruiz v. A. B. Chance* and without any

suggestion or teaching found in the references, “on that basis alone declares the invention obvious.”

Since the vertical shaft of Chandler is incapable of being inclined 8° to 25° as required by Claims 1-3 and 6, nothing in Chandler can suggest modification of Kitabayashi to produce a vertically mass balanced putter as claimed.

ISSUE C. Can the disclosures of Kitabayashi, Chandler or Redman be combined to form the invention defined by Claims 4-5 and 7-8?

Claims 4 and 5 are dependent from Claim 3 which is dependent from Claim 1 and include the further limitation that the putter head “includes a marker on the top face thereof which identifies the horizontal midpoint of said striking face.”

Claims 7 and 8 are dependent from Claim 6 and include the further limitation that that putter head “includes a marker on the top face thereof which identifies the horizontal center of mass of said putter.”

In rejecting Claims 4-5 and 7-8 the Examiner relies on the same combination of references applied in the same manner as applied in rejecting Claims 1-3 and 6. However, the Examiner further alleges that Chandler “shows a marker that identifies the midpoint of the putter head” and that “it would be obvious to have the marker of Kitabayashi in view of Chandler to be visible for both sides of the shaft, as taught by Redman...”

Since the rejection of Claims 4-5 and 7-8 is identical to the rejection of Claims 1-3 and 6 (except for the “marker” allegations) the arguments advanced above regarding Claims 1-3 and 6 (see **Issue A**, above) are equally applicable to these claims and need not be repeated in detail here. However, since Claims 4-5 and 7-8 require a specific element not included in Claims 1-3 and 6, they must be considered as new combinations of components, all of which cooperate to produce a specific structure

which cannot be produced using the components selected from the references applied by the Examiner. Each of the arguments regarding non-obviousness advanced in **Issue A** above apply equally to this new combination of elements.

It should first be noted that in Claim 4 the marker identifies the horizontal midpoint of the striking face defined in Claim 1. No such defined striking face is disclosed or described in either Kitabayashi, Chandler or Redman. In fact, the Examiner notes that the marker in Chandler “identifies the midpoint of the putter head,” not the horizontal midpoint of the striking face. This distinction is crucial to the structure claimed. In Claim 4 (ultimately dependent from Claim 1), the vertical center of mass of the entire putter lies within the horizontal length of the preferred striking area. Thus the marker identifies the vertical center of mass of the entire putter assembly. Identifying “the midpoint of the putter head” is irrelevant to the invention. Thus, using Chandler’s marker to identify the “midpoint of the putter head” cannot be used with the Kitabayashi reference to identify the horizontal midpoint of the striking face as carefully defined by Claim 4.

In rejecting Claim 7, the Examiner further alleges that the Chandler marker “*appears* (emphasis added) to be aligned with the center of mass of the putter.” Significantly, the Examiner uses the word “appears” since nothing in either reference directly or indirectly discloses the relationship of the marker to the center of mass. In fact, the location of the center of mass (of either the putter head or the entire putter) is not disclosed. Since the center of mass is not disclosed, the relationship of the center of mass and the marker is not disclosed. Furthermore, nothing in either reference suggests any relationship between center of mass and the marker. Accordingly, there is no way to combine the disclosures of Kitabayashi and Chandler to produce the specific structure claimed.

Redman discloses a blade-type club in which the shaft is attached at the toe end of the club head and inclined toward the player. Markers extend across the top face of the club head which are used in connection with the shaft to provide a “sighting element” to keep the blade aligned 90° from the direction of swing. Nothing in Redman discloses, discusses or in any way refers to balancing the putter to avoid induced yaw. Furthermore, if the vertical shaft of Chandler is used on the mallet-type putter of Kitabayashi (as suggested by the Examiner), the “sighting element” of Redman would be inoperable because the Redman “sighting element” must cooperate with an inclined shaft. Accordingly, there is no way in which the elements of Kitabayashi, Chandler and Redman can be combined to produce the invention claimed.

ISSUE D. Is there any teaching, suggestion or motivation found in either Kitabayashi, Chandler or Redman to combine individual components of the references to produce the invention of Claims 4-5 and 7-8?

Claims 4 and 5 are dependent from Claim 3 which is dependent from Claim 1 and include the further limitation that the putter head “includes a marker on the top face thereof which identifies the horizontal midpoint of said striking face.”

Claims 7 and 8 are dependent from Claim 6 and include the further limitation that that putter head “includes a marker on the top face thereof which identifies the horizontal center of mass of said putter.”

In rejecting Claims 4-5 and 7-8 the Examiner relies on the same combination of references applied in the same manner as applied in rejecting Claims 1-3 and 6. However, the Examiner further alleges that Chandler “shows a marker that identifies the midpoint of the putter head.”

Since the rejection of Claims 4-5 and 7-8 is identical to the rejection of Claims 1-3 and 6 (except for the “marker” allegations) the arguments advanced above

regarding Claims 1-3 and 6 (see **Issue B**, above) are equally applicable to these claims and need not be repeated in detail here. However, since Claims 4-5 and 7-8 require a specific element not included in Claims 1-3 and 6, they must be considered as new combinations of components, all of which cooperate to produce a specific structure which cannot be produced using the components selected from the references applied by the Examiner. Each of the arguments regarding non-obviousness advanced in **Issue B** above apply equally to this new combination of elements.

It should be noted that in Claim 4 the marker identifies the horizontal midpoint of the striking face defined in Claim 1. No such defined striking face is disclosed or described in either Kitabayashi or Chandler. In fact, the Examiner notes that the marker in Chandler “identifies the midpoint of the putter head,” not the horizontal midpoint of the *striking face*. This distinction is crucial to the structure claimed. In Claim 4 (ultimately dependent from Claim 1), the vertical center of mass of the entire putter lies within the horizontal length of the preferred striking area. Thus the marker identifies the vertical center of mass of the entire putter assembly. Identifying “the midpoint of the putter head” is irrelevant to the invention. Thus, using Chandler’s marker to identify the “midpoint of the putter head” cannot be used with the Kitabayashi reference to identify the horizontal midpoint of the striking face as carefully defined by Claim 4.

In rejecting Claim 7, the Examiner further alleges that the Chandler marker “*appears* (emphasis added) to be aligned with the center of mass of the putter.” Obviously, the Examiner uses the word “appears” since nothing in either reference directly or indirectly discloses the relationship of the marker to the center of mass. In fact, the location of the center of mass (of either the putter head or the entire putter) is not disclosed. Since the center of mass is not disclosed, the relationship of the center of

mass and the marker is not disclosed. Furthermore, nothing in either reference suggests any relationship between center of mass and the marker. Accordingly, there can be no suggestion, teaching or motivation found in Kitabayashi or Chandler to combine the specific features which the Examiner attempts to combine to produce the claimed invention.

Redman discloses a blade-type club in which the shaft is attached at the toe end of the club head and inclined toward the player. Markers extend across the top face of the club head which are used in connection with the shaft to provide a “sighting element” to keep the blade aligned 90° from the direction of swing. Nothing in Redman discloses, discusses or in any way refers to balancing the putter to avoid induced yaw. Furthermore, if the vertical shaft of Chandler is used on the mallet-type putter of Kitabayashi (as suggested by the Examiner), the “sighting element” of Redman would be inoperable because the Redman “sighting element” requires and must cooperate with an inclined shaft. Since neither Redman nor Kitabayashi disclose or suggest means for eliminating induced yaw, and since Chandler avoids induced yaw by extending the shaft vertically, nothing found in any of these references would suggest combining unrelated elements to produce the invention claimed. Accordingly, there is no suggestion, teaching or motivation to combine the elements of Kitabayashi, Chandler and Redman as suggested by the Examiner.

ISSUE E. Can the disclosures of Redman and Chandler be combined to form the invention defined by Claim 1?

Claim 1 defines a putter comprising:

(a) a putter head having a first mass and defining a bottom face, a top face and a striking face which defines a horizontal axis and which extends in a substantially vertical plane from said bottom face toward said top face and extends at

least about four inches in a plane substantially parallel with said horizontal axis to define a preferred striking area approximately centrally located on said striking face and extending a distance of approximately one inch in each direction horizontally from the horizontal mid-point of said striking face; and

(b) a shaft having a second mass and extending from the top face of said putter at an angle of from about 8° to about 25° from vertical with respect to said horizontal axis supporting a grip on the end thereof remote from said putter head and aligned so that the vertical center of mass of the putter lies within the horizontal length of said preferred striking area.

In rejecting Claim 1, the Examiner alleges that Redman discloses all the structure of Claim 1 excepting only the critical limitation of aligning the shaft and grip “so that the vertical center of mass of the [entire] putter lies within the horizontal length of said preferred striking area.” While admitting that Redman fails to disclose this critical limitation, the Examiner alleges that Chandler “discloses a putter having a putter head and a shaft with grip wherein the vertical center of mass lies within the preferred length of the striking area...” and concludes that “One having ordinary skill in the art would have found it obvious to have the vertical center of mass within the preferred striking area...”

It should first be noted that Redman discloses a traditional blade-type club with an inclined shaft which can be used in the traditional stance wherein the player faces 90° from the direction of swing. The shaft, however, is attached at the toe end of the club head and markers on the top face of the club head are used in connection with the shaft as “sighting elements” to keep the club face aligned normal to the direction of swing. Chandler, on the other hand, discloses a putter where the shaft extends vertically from the putter head, thus requiring the player to use an unusual upright

stance facing the direction of swing. This, of course, limits the Chandler putter to use with only one hand instead of the traditional two-handed grip.

Assuming (without admitting) that Redman discloses all the claimed structure except aligning the shaft, *etc.*, so that the center of mass is vertically aligned over the preferred striking area (as alleged by the Examiner), substitution of the vertically aligned shaft of Chandler for the inclined shaft of Redman is necessary to achieve the critical limitation of aligning the shaft and grip “so that the vertical center of mass of the [entire] putter lies within the horizontal length of the preferred striking area.” Such a combination, however, would produce a putter which fails to include another critical limitation specified, *i.e.*, “a shaft...extending from the top face of said putter at an angle of from about 8° to about 25° from vertical...” as required in Claim 1.

Redman discloses a club head supported on a shaft which is attached at the toe end (instead of the center or heel end) of the head. There is no discussion or recognition of any of the characteristics or limitations set forth in Claim 1. The Examiner’s admission that “It is unclear if Redman discloses the vertical center of mass lying with the preferred length of the striking area” is a less than candid appraisal of Redman. Redman does not even describe (or recognize) a “preferred striking area” or disclose any limitation which would locate the center of mass within such a preferred striking area. Instead, Redman merely discloses a shaft attached to the toe end so that the shaft may cooperate with the “sighting elements” to control the face of the blade. Nothing in Redman discloses or suggests that the components of the putter must be arranged so that the *vertical center of mass* of the entire putter lies within the horizontal length of a preferred striking area.

To provide the admitted deficiencies of Redman, the Examiner attempts to combine the disclosure of Chandler, alleging that the one-handed croquet-style putter of

Chandler inherently positions the center of mass of the entire putter within the preferred striking area (because the Chandler shaft projects vertically from the horizontal center of the putter head face) and thus it would be obvious to position the shaft at the vertical center of mass.

Assuming that the vertical displacement of the Chandler shaft results in positioning the vertical center of mass within the (undefined) preferred striking area of the putter head face, this structure alone *precludes* combining the disclosure of Chandler with the disclosure of Redman to support an obviousness rejection under §103. Claim 1 specifically requires that the shaft extend from the putter head top surface at an angle of from about 8° to about 25° from vertical. Chandler specifically requires the shaft to extend vertically above the geometric center of the putter head. Therefore, it would be impossible to combine any structure or teaching found in Chandler with the disclosure of Redman to produce a putter in which the shaft extends from the putter head at an angle of from about 8° to about 25° and in which the vertical center of mass of the *entire putter* (including shaft and grip) lies within the preferred striking area. The stated reason for aligning the Chandler shaft vertically is to permit use of a one-handed upright and forward facing stance. Thus, incorporating the vertically arranged shaft structure of Chandler would destroy the mode of operation of the Redman club.

As stated in *National Tractor Pullers Assn., Inc. v. Watkins*, 205 USPQ 892 at 911:

"Modification of a prior art patent or device which would render that device unworkable for its intended purpose cannot be said to suggest such a modification."

The Redman club is obviously designed and intended to be used with the player in the traditional two-handed stance facing 90° from the direction of putter head swing.

Chandler, however, expressly arranges his putter structure to require that the shaft extends vertically so that the putter can only be used in the unorthodox upright forward-facing stance while gripped with only one hand.

Appellant's putter is designed only for use in the traditional two-handed stance with the player facing 90° to the line of putter head travel. Not only would the combination suggested by the Examiner destroy the mode of operation of the primary reference, it would require the redesigned club to function in an entirely different manner. Accordingly, the modification of Redman suggested by the Examiner cannot be used to support a rejection under 35 USC 103.

ISSUE F. Is there any teaching, suggestion or motivation found in either Redman or Chandler to combine individual components of the references to produce the invention of Claim 1?

For determining obviousness, Sec. 103 specifically requires that the claim be considered "as a whole", including its structure, its properties and the problems it solves. See *In re Wright*, 848 F.2d 1216, 1219, 6 USPQ2d 1959, 1961 (Fed. Cir. 1988); *In re Dillon*, 919 F.2d 688, 16 USPQ2d 1987 (Fed. Cir. 1990). Inventions typically are new combinations of existing principles or features. *Envtl. Designs, Ltd. v. Union Oil Co.*, 713 F.2d 693, 698 (Fed. Cir. 1983) (noting that "virtually all [inventions] are combinations of old elements.") As expressed in *Ruiz v. A. B. Chance Co.*, 357 F. 3rd 1270, 69 USQ 2d 1686 (Fed. Cir. 2004):

"The 'as a whole' instruction in title 35 prevents evaluation of the invention part by part. Without this important requirement, an obviousness assessment might break an invention into its component parts (A + B + C), then find a prior art reference containing A, another containing B, and another containing C, and on that basis alone declare the invention obvious. This form of hindsight reasoning, using the invention as a roadmap to find its prior art components, would discount the value of combining various existing features or principles in a new way to achieve a new result – often the very definition of invention."

Sec. 103 further requires cognizance of not only the structure and properties of the invention but also the problems it solves. *Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick Co.*, 730 F.2d 1452, 1462, 221 USPQ 481, 488 (Fed. Cir. 1984). It is error to focus solely on the product created rather than on the obviousness or non-obviousness of its *creation*. Therefore, "the question is whether what the inventor did would have been obvious to one of ordinary skill in the art attempting to solve the problem on which the inventor was working." *In re Wright*, 848 F.2d at 1219, 6 USPQ2d at 1961.

There can be no doubt that Redman does not recognize or address the problem of induced yaw resulting from putter imbalance. Instead, Redman positions the shaft at the toe so that the player can visually align the club to prevent yaw. No reason for or motivation to align the shaft to achieve a vertically mass balanced putter is even remotely suggested.

Chandler, on the other hand, recognizes the yaw problem but addresses it in an entirely different and unique manner. Chandler aligns the shaft vertically, thus (apparently) achieving a vertically mass balanced putter. However, because of the vertical alignment of the Chandler shaft, the putter cannot be used in the traditional two-handed 90° stance. Thus, while Chandler recognizes the problem addressed by Appellant, Chandler's solution cannot be applied to traditional putters. Appellant's unique solution solves both problems – a vertically mass balanced putter which can be used in the traditional stance.

Most significantly, nothing in either reference suggests that the Examiner's modifications could be made or that the modifications would produce the novel results of the claimed structure. As explained in *C.R. Bard, Inc. v. M3 Sys., Inc.*, 157 F.3d 1340, (Fed. Cir. 1998):

[T]he legal conclusion of obviousness requires that there be some suggestion, motivation, or teaching in the prior art whereby the person of skill would have selected the components that the inventor selected and used them to make the new device.

The modification suggested by the Examiner, however, is only apparent from the teachings of the present invention and the Examiner's modified structure becomes obvious only after referring to the desired structure described and claimed by Appellant.

It is well settled that when "prior art references require the selective combination...to render obvious a subsequent invention, there must be some reason for the combination other than hindsight gleaned from the invention itself." *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985). *See also ACS Hospital System, Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). "To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." *W.L. Gore & Associates v. Garlock*, 721 F.2d 1540, 1553, 220 USPQ 312-13 (Fed. Cir. 1983).

Obviousness under §103 cannot be established by modifying the prior art to produce the invention absent some teaching, suggestion or incentive supporting such combination or modification. *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990) (quoting from *Carella v. Starlight Archery*, 231 USPQ 644 (Fed. Cir. 1986)). Furthermore, the references can only be considered for what they teach one skilled in the art. *In re Soderquist*, 140 USPQ 387 (CCPA 1964); *In re Richman*, 165 USPQ 509 (CCPA 1970). The rejection here is not based on any disclosure of structure as specified in the rejected claim nor is the rejection based on a showing that the Examiner's combination

would solve the problems solved by the claimed invention. Instead, the rejection is based solely on the Examiner's unsupported supposition that the references may be modified *merely for expedience*. However, as stated in *In re Bond*:

The references themselves must provide some teaching whereby the applicant's combination would have been obvious.

No such teaching can be found in either of the references. The Examiner has merely assumed that since the claimed structure appears simple, it would be obvious to modify other apparently simple structures to produce the claimed invention with no basis therefor other than Appellant's disclosure. While the claimed structure may appear simple in hindsight, its *creation* was neither simple nor obvious. As noted in *In re Horn, Horn, Horn and Horn*, 203 USPQ 969 at 971 (CCPA 1979):

[S]implicity and hindsight are not proper criteria for resolving the issues of obviousness.

The absence of a suggestion to combine is telling in an obviousness determination. In *Motorola, Inc. v. Interdigital Technology Corp.*, 125 F.3d 1461, 43 USPQ 2d 1481 (Fed. Cir. 1997) the court stated:

Although...[the disclosure requirement]...presupposes the knowledge of one skilled in the art of the claimed invention, that presumed knowledge does not grant a license to read into the prior art references teachings that are not there.

The present obviousness rejections are based solely on the Examiner's assumptions of that inclined but vertically mass balanced shafts could be substituted for non-vertically mass balanced shafts because Chandler shows a vertically aligned shaft. Simply stated, the rejections are based on the Examiner's unsubstantiated assumption instead of teachings found in the art. The sole basis for making such assumption is the Examiner's belief that the prior art could be modified to produce the invention even though there is no such teaching or suggestion in the art. However, "[T]he mere fact that prior art could be so modified would not have made the modification obvious

unless the prior art suggested the desirability of the modification." *In re Laskowski*, 871 F.2d 115, 10 USPQ 1397 (Fed. Cir. 1989). Nowhere does the Examiner even allege that any of the references remotely suggests the desirability of the modifications suggested. Instead, the Examiner finds a vertical shaft (which he thinks would provide the missing vertical mass balancing) and, as expressly prohibited by *Ruiz v. A. B. Chance* and without any suggestion or teaching found in the references, "on that basis alone declares the invention obvious."

Since the vertical shaft of Chandler is incapable of being inclined 8° to 25° as required by Claim 1, nothing in Chandler can suggest modification of Redman to produce a vertically mass balanced putter as claimed.

The ultimate question in a rejection for obviousness is what the references teach one skilled in the art. *In re Soderquist*, 140 USPQ 387 (CCPA 1964); *In re Richman*, 165 USPQ 509 (CCPA 1970). Even if a prior art device could be modified to produce the claimed invention, an obviousness rejection is not appropriate unless the prior art suggests the desirability of the modification. *In re Gordon, et al.*, 221 USPQ 1125 (Fed. Cir. 1984); *In re Laskowski*, 10 USPQ2d 1397 (Fed. Cir. 1989). It is impermissible to simply engage in hindsight reconstruction of the claimed invention using the applicant's structure as a template and selecting elements from the references to fill the gaps. *Interconnect Planning Corp., v. Fiel, et al.*, 774 F.2d 1132, 227 USPQ 543 (Fed. Cir. 1985).

It is axiomatic that the test for obviousness is what the combined teachings of the prior art would have suggested to one of ordinary skill in the art. See, for example *Merck & Co., Inc. v. Biocraft Laboratories, Inc.*, 10 USPQ2d 1843 (Fed. Cir. 1989) and *In re Keller, Terry and Davies*, 208 USPQ 871 (CCPA 1981). Considering the references cited herein for what they fairly disclose, there is simply nothing which

teaches or even remotely suggests the specific structure claimed or any reason for making such structure. Even if the prior art could be modified to produce the claimed structure, an obviousness rejection is not appropriate unless the prior art suggests the desirability of the modification. *In re Gordon, et al.*, 221 USPQ 1125 (Fed. Cir. 1984); *In re Laskowski*, 10 USPQ2d 1397 (Fed. Cir. 1989). Nothing in the references cited even remotely suggests that such structures would be useful or desirable if they could be fabricated. As succinctly stated in *Ex parte Clapp*, 227 USPQ 972 at 973:

To support the conclusion that the claimed combination is directed to obvious subject matter, either the reference must expressly or impliedly suggest the claimed combination or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

Neither of these requirements has been met in this case.

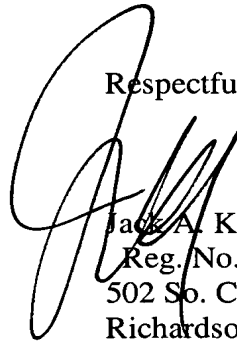
Since the novel features specifically defined in the claims are not disclosed in the references; since the various features found in the references cannot be combined as suggested by the Examiner to produce the invention claimed; and since there is nothing in any of the references to suggest or teach the combination alleged by the Examiner, it is respectfully submitted that the Sec. 103 rejections of Claims 1-8 are wholly unsupportable and must be reversed.

CONCLUSION

Appellant submits that Claims 1-8 have been erroneously rejected for the reasons set forth hereinabove. Accordingly, reversal of all rejections is respectfully requested.

Our check in the amount of \$250.00 to cover the fee required by 37 CFR 41.20(b) for filing this Brief on Appeal was submitted with the original Brief on Appeal filed September 15, 2005.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Jack A. Kanz', is written over the typed name and address.

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April 19, 2007

ATTORNEY FOR APPELLANT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of Jeffry A. Pegg

Filed: December 15, 2003
Serial No: 10/734,883
Art Unit: 3711
Examiner: Hunter, A.
Title: Vertically Mass Balanced Putter

APPENDIX TO
BRIEF ON APPEAL

APPENDIX I**WHAT IS CLAIMED:**

1. A putter comprising:
 - (a) a putter head having a first mass and defining a bottom face, a top face and a striking face which defines a horizontal axis and which extends in a substantially vertical plane from said bottom face toward said top face and extends at least about four inches in a plane substantially parallel with said horizontal axis to define a preferred striking area approximately centrally located on said striking face and extending a distance of approximately one inch in each direction horizontally from the horizontal mid-point of said striking face; and
 - (b) a shaft having a second mass and extending from the top face of said putter at an angle of from about 8° to about 25° from vertical with respect to said horizontal axis supporting a grip on the end thereof remote from said putter head and aligned so that the vertical center of mass of the putter lies within the horizontal length of said preferred striking area.
2. A putter as defined in Claim 1 wherein said putter head is geometrically symmetrical about its vertical axis.
3. A putter head as defined in Claim 2 wherein said shaft extends from said top face at a point between the toe end of said putter head and the vertical axis of said putter head.

4. A putter as defined in Claim 3 wherein said putter head includes a marker on said top face thereof which identifies the horizontal midpoint of said striking face.

5. A putter as defined in Claim 4 wherein said marker extends in opposite directions from the geometric center of said putter head.

6. A putter comprising:

(a) a putter head having a toe end, a heel end, a bottom face, a top face and a striking face which defines a preferred striking area approximately centrally located on said striking face and extending approximately one inch in each direction horizontally from the horizontal midpoint of said striking face;

(b) a shaft extending from said top face of said putter head at a position between said horizontal midpoint and said toe end at an angle of from about 8° to about 25° from vertical wherein said putter head and said shaft are arranged and weighted to align the vertical center of mass thereof within the horizontal length of said preferred striking area.

7. A putter as defined in Claim 6 wherein said putter head includes a marker on the top face thereof which identifies the horizontal center of mass of said putter.

8. A putter as defined in Claim 7 wherein said marker is equally visible on opposite sides of said shaft when the marker is aligned with a ball to be struck and said striking face is aligned perpendicular to the desired direction of travel of said ball.